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LOVELAND INDUSTRIES, INC. dba UAP WEST

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA - FRESNO

WAYNE BILLINGSLEY, WAVA
BILLINGSLEY AND CALIFORNIA AGRI
SPRAYERS, INC., A California Corporation,

Plaintiffs,

Vs.

LOVELAND INDUSTRIES, INC. dba UAP
WEST, a Colorado Corporation, and DOES 1
through 50, inclusive.

Defendants.

CASE NO.: 1: 02 CV 5853-REC-DLB

**JOINT STIPULATION TO CONTINUE
TRIAL, PRETRIAL CONFERENCE
DATE, AND AMENDED EXPERT
DISCLOSURE DATES**

[Local Rule 78-230(g); 83-143]

COME NOW PLAINTIFFS WAYNE BILLINGSLEY, WAVA BILLINGSLEY AND
CALIFORNIA AGRI SPRAYERS, INC. BY AND THROUGH THEIR ATTORNEY OF
RECORD GERALD M. LEVERETT AND DEFENDANTS LOVELAND INDUSTRIES, INC.
D.B.A. UAP WEST BY AND THROUGH THEIR ATTORNEYS OF RECORD GORDON &

1 REES, KEVIN ALEXANDER AND BRIAN M. LEDGER, WHO STIPULATE TO
2 CONTINUE THE TRIAL, PRETRIAL CONFERENCE DATE, AND AMENDED EXPERT
3 DISCLOSURE DATES; AND WHICH STIPULATION PROVIDES:

4 **BACKGROUND:**

5
6 1. Plaintiffs Billingsleys, the owners of certain real property located in the County of
7 Tulare, State of California more particularly referred to by Tulare County Tax Assessors'
8 Numbers 338-070-006, 338-260-016, 338-070-005 and 338-070-006, being a portion of Section
9 32, Township 26 South, Range 26 East MDB&M.

10 2. The above referred to real property is devoted to agricultural purposes and specifically
11 three separate almond orchards.

12 3. The orchards are owned by Plaintiff California Agri Sprayers, Inc., a California
13 corporation. Plaintiffs Billingsleys are the owners of 100 percent of the shares of stock in
14 California Agri-Sprayers, Inc.

15
16 4. During the pendency of this action, Plaintiffs' counsel underwent abdominal surgeries
17 in February, March, June and November of 2004. The parties conducted discovery while
18 accommodating counsel's medical needs.

19 6. The parties have exchanged Expert Witness Disclosures and have commenced Expert
20 Witness Discovery and Depositions.

21
22 7. Recent developments necessitate a continuation of the Trial and Pretrial Conference.
23 Plaintiffs' claims have recently been broadened to include alleged damage to recently planted
24 trees. Further, Plaintiffs have revived a claim for diminution in value of property, which
25 Defendant believed had been abandoned by Plaintiffs. As a result, Defendant must serve an
26 amended expert disclosure to include new expert witnesses required to respond to these new
27 elements of Plaintiffs' claims. In addition, further expert depositions will now be required.
28

9. To allow sufficient time for these new expert witnesses to prepare their opinions and provide deposition testimony, Plaintiffs and Defendant have agreed that the Trial and Pretrial Conference should be continued. The Parties have further agreed that the Pretrial Conference Statement should be due five days prior to the due date for the newly scheduled Pretrial Conference. The Parties have further agreed that all parties should be permitted to serve amended expert disclosures and that Defendant's amended expert disclosure will be due on October 21, 2005 and that Plaintiffs may serve an amended expert disclosure by November 7, 2005.

STIPULATION

WHEREFORE, based upon the above facts the parties hereto stipulate to the following:

1. Continue the Trial from November 8, 2005 to February 14, 2006 at 9 a.m.
2. Continue the Pretrial Conference from September 23, 2005 to January 13, 2006 at 1:30 p.m.
3. Defendant to serve an amended expert disclosure by October 21, 2005.
4. Plaintiffs may serve an amended expert disclosure by November 7, 2005.
5. Joint Pretrial Conference Statement to be filed by January 6, 2006

So stipulated.

Date: JULY 21, 2005

Gerald M. Leverett, Esq. /s/
Wayne Billingsley, Wava Billingsley,
By Gerald M. Leverett, Esq.

Date: JULY 21, 2005

Gerald M. Leverett, Esq. /s/
California Agri Sprayers
By Gerald M. Leverett, Esq.

So Stipulated.

Date: SEPTEMBER 15, 2005

Kevin W. Alexander, Esq. /s/
Loveland Industries, Inc. d.b.a.
UAP West
By Kevin W. Alexander, Esq.

ORDER

The Court, having considered the Joint Stipulation of the parties hereto, and GOOD CAUSE APPEARING, the Court hereby approves the Stipulation. The Trial is continued from November 8, 2005 to February 14, 2006 at 9 a.m.; the Pretrial Conference is continued from September 23, 2005 to January 13, 2006 at 1:30 p.m.; Defendant to serve an amended expert disclosure by October 21, 2005; Plaintiffs may serve an amended expert disclosure by November 7, 2005; Joint Pretrial Conference Statement to be filed by January 6, 2006.

IT IS ORDERED.

DATE: September 16, 2005

/s/ Dennis L. Beck

DENNIS BECK

U. S. MAGISTRATE JUDGE

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